IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

Crl.MC.No. 551 of 2007()

CP.190/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOTTARAKKARA
CR.NO.162/04 OF POOYAPPALLY POLICE STATION.

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PETITIONER:

JANARDHANA PILLAI,
S/O. PADMANABHA PILLAI,
PANAYIL MELETHIL VEEDU,
MUTTARA MURI,
ODANAVATTOM VILLAGE,
KOLLAM DISTRICT.

BY ADV. SRI. K.SIJU
SRI.A.MUHAMMED RAFFI

RESPONDENTS:

STATE OF KERALA,
REP. BY THE SUB INSPECTOR OF POLICE,
POOYAPPALLY POLICE STATION
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 551 OF 2007

Dated this the 1st day of March, 2007

ORDER

The petitioner is the 1st accused in a prosecution under Sec.8 of the Kerala Abkari Act. Crime was registered in 2004. The 2nd accused was arrested. The petitioner was not arrested at all in the course of investigation. Final report was filed. Cognizance was taken. The petitioner did not receive any process. The 2nd accused has appeared and was committed to the court of session. The petitioner now finds a warrant of arrest issued by the learned Magistrate chasing him. He is willing to surrender before the learned Magistrate; but he apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously.

2. Investigation is complete. Charge sheet has already been filed. It is the case of the petitioner that he never knew of the pendency of the proceedings. It is for the petitioner to appear before the learned Magistrate and explain to the

learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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//true copy// **P.S. To Judge**